



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Christopher Meade *et al.*

Examiner: Phyllis G. Spivak

Serial No.: 10/614,362

Group Art Unit: 1614

Filed: July 7, 2003

Docket: 1/1363

Customer No.: 28501

Confirmation No.: 7889

For: PHARMACEUTICAL COMPOSITIONS BASED ON NEW ANTICHOLINERGICS
AND NK1 RECEPTOR ANTAGONISTS

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO ELECTION REQUIREMENT

Sir:

This Reply is filed in response to the Office Action dated February 27, 2004. In that Office Action, a one month shortened statutory period was set for response, and this Reply is therefore timely. If it is determined, however, that any fees under 37 C.F.R. §§ 1.16 or 1.17 are due in connection with this Reply, authorization is hereby given to charge such fees to Deposit Account No. 02-2955. In addition, applicants also request that any subsequently filed reply requiring a petition for an extension of time for its timely submission be treated as if it incorporated such petition for an extension of time pursuant to the provisions of 37 C.F.R. § 1.136(a)(3) and hereby authorize that any fees due in connection therewith be charged to Deposit Account No. 02-2955.

In the Office Action, the Examiner imposed an election requirement in the instant application. The Examiner alleged that the claims of the instant application are generic to a plurality of patentably distinct species comprising one or more NK₁ receptor antagonists. The Examiner required applicants to elect a single disclosed species for examination purposes.

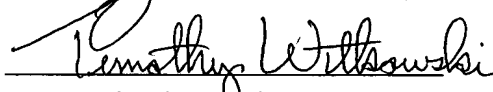
In response to that election requirement, applicants hereby elect with traverse the NK₁ receptor antagonist N-[2-(3,5-bis-trifluoromethylphenyl)ethyl]-2-{4-[(3-hydroxypropyl)-

methylamino]piperidin-1-yl}-N-methyl-2-phenylacetamide (see Example 3) as the species for examination purposes.

Applicants, however, point out that the Examiner has not indicated that, should the claims directed to the elected species be found allowable, further search and examination as to other species would be performed and, if found allowable, the generic claim including "one or more NK₁ receptor antagonists" would be allowable. Furthermore, as search of the relevant art for specific NK₁ receptor antagonists and would be expected to uncover art concerning the class of NK₁ receptor antagonists, a search for relevant art and subsequent examination of the claims as presented would not be an undue burden on the Examiner. M.P.E.P. § 803.

Applicants reserve the right to prosecute in one or more divisional applications whatever subject matter is not examined or allowed here. Applicants also respectfully submit that all the pending claims are allowable and therefore solicit a Notice of Allowance for all of the pending claims. If the Examiner feels that a telephone interview would be helpful in advancing prosecution of this application, the Examiner is invited to contact the attorney below.

Certificate of Mailing Under 37 C.F.R. § 1.8(a)
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 11, 2004.

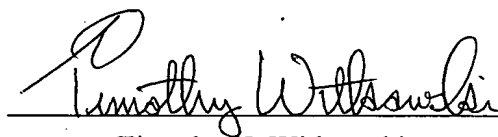


Timothy X. Witkowski
Registration No. 40,232

3-11-04

Dated

Respectfully submitted,



Timothy X. Witkowski
Registration No. 40,232
Attorney for Applicants

BOEHRINGER INGELHEIM CORPORATION
Patent Department
900 Ridgebury Road
P.O. Box 368
Ridgefield, CT 06877
(203) 798-4310
(203) 798-4408